

**Senate Standing Committee  
for the  
Scrutiny of Bills**



**Alert Digest**

**No. 9 of 2000**

**28 June 2000**

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# Senate Standing Committee for the Scrutiny of Bills

## Members of the Committee

Senator B Cooney (Chairman)  
Senator W Crane (Deputy Chairman)  
Senator T Crossin  
Senator J Ferris  
Senator B Mason  
Senator A Murray

## Terms of Reference

Extract from **Standing Order 24**

- (1) (a) At the commencement of each parliament, a Standing Committee for the Scrutiny of Bills shall be appointed to report, in respect of the clauses of bills introduced into the Senate, and in respect of Acts of the Parliament, whether such bills or Acts, by express words or otherwise:
- (i) trespass unduly on personal rights and liberties;
  - (ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;
  - (iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
  - (iv) inappropriately delegate legislative powers; or
  - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.
- (b) The committee, for the purpose of reporting upon the clauses of a bill when the bill has been introduced into the Senate, may consider any proposed law or other document or information available to it, notwithstanding that such proposed law, document or information has not been presented to the Senate.



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- **The Committee has commented on these bills**

This Digest is circulated to all Honourable Senators.  
Any Senator who wishes to draw matters to the attention of the  
Committee under its terms of reference is invited to do so.

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- **The Committee has commented on these bills**

This Digest is circulated to all Honourable Senators.  
Any Senator who wishes to draw matters to the attention of the Committee under its terms of reference is invited to do so.

## **Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000**

This bill was introduced into the House of Representatives on 22 June 2000 by the Parliamentary Secretary to the Minister for the Environment and Heritage. [Portfolio responsibility: Justice and Customs]

The bill proposes to amend the *Customs Tariff Act 1995* to enact amendments consequential on the Product Stewardship (Oil) Bill 2000. The amendments introduce a levy of 5 cents per litre on imported petroleum-based oils and their synthetic equivalents, and a levy of 5 cents per kilogram on petroleum-based greases and their synthetic equivalents. Imported recycled oils and greases will also be captured by the levy, which will be subject to future CPI adjustments.

*The Committee has no comment on this bill.*



## **Excise Amendment (Compliance Improvement) Bill 2000**

This bill was introduced into the House of Representatives on 21 June 2000 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Treasury]

The bill proposes to amend the *Excise Act 1901* to strengthen the provisions that regulate the production, dealing, manufacturing and storage specifically of tobacco, and excisable goods generally. The measures are designed to provide a stronger statutory framework within which the Australian Taxation Office can combat illegal activities that threaten the revenue base for tobacco excise.

Measures proposed include the introduction of a comprehensive licensing scheme for the production of and dealing in tobacco, and for the manufacturing and storage of excisable goods generally; the implementation of controls over the movement and possession of tobacco seeds, plant and leaf and related offence provisions; increased penalties; and the provision of extended powers to officers to stop and search conveyances for tobacco leaf or excisable goods.

### **Strict liability offences**

**Proposed new subsections 39K(4), 39L(7), 39M(3), 44(5), 61(3), 61A(6), 61C(4B), 117(2) to 117H(2) and 117I(3)**

A number of provisions included in this bill will impose strict liability for various criminal offences. Strict liability permits a person to be convicted of an offence irrespective of his or her state of mind.

In setting out the background to these provisions, the Explanatory Memorandum observes that “the revised offence provisions will introduce a tiered penalty structure. The higher level of penalty will apply where the requisite fault elements are established. A lower level of penalty will apply if only the physical elements of the offence are established, that is, where the offence is one of strict liability. This is consistent with the classification of offences in the Criminal Code”.

While these observations are correct, the Explanatory Memorandum does not elaborate on the need for this new tiered penalty structure in the case of this bill. The Committee therefore **seeks the Treasurer's advice** on why a tiered penalty structure is now to be imposed under this bill.

*Pending the Treasurer's advice, the Committee draws Senators' attention to these provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee's terms of reference.*

### **Old convictions, continuing consequences**

#### **Proposed new paragraphs 39B(b), 39C(b), 39H(b) and 39I(b)**

A number of provisions included in this bill authorise the Collector to determine whether a person or a company is "fit and proper" for certain purposes. In making such a determination, the Collector may have regard to, among other things, convictions for offences within the previous 10 years.

Such provisions may be regarded as somewhat arbitrary, and as imposing a double penalty on the person or company concerned in that the fact of a conviction may be held against them, possibly long after the offence was committed.

These particular provisions also refer to offences "punishable" by imprisonment for a period of one year or longer, or by a fine of 50 penalty units. Such provisions are potentially inequitable in that they take account of nominal penalties but not of penalties actually imposed. For example, under proposed paragraph 39B(b), a person who has actually served a sentence of imprisonment of 6 months for an offence which was punishable by imprisonment for 6 months (ie the worst category of such an offence) would not have this sentence taken onto account. However, a person who was fined \$50 for an offence punishable by imprisonment for a year (ie not at all a serious category of such an offence) might nevertheless have this sentence taken into account.

The Committee notes that the bill merely enables past offences to be taken into account – such offences do not preclude the grant of a licence. However, there is a real possibility that such a provision may lead to a refusal to grant a

licence in circumstances of apparent unfairness. The Committee, therefore, **seeks the Treasurer's advice** as to the appropriateness of enabling such old convictions to be taken into account.

*Pending the Treasurer's advice, the Committee draws Senators' attention to these provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee's terms of reference.*

### **Apparently non-reviewable discretion Proposed new subsection 129F(1)**

The bill proposes to include a new Part XA in the Principal Act. This Part creates a system of infringement notices for certain offences as an alternative to prosecutions for those offences.

Under proposed subsection 129F(1), the CEO of Customs, if he or she is satisfied that it is proper in all the circumstances, may withdraw an infringement notice. The Explanatory Memorandum suggests that such a withdrawal would then expose the alleged offender to the full rigour of a prosecution, with the likelihood that a more severe penalty will be imposed. No reference is made to the possibility that such a withdrawal may result in an offender not being prosecuted at all.

It is not clear whether this discretion is to be subject to any form of review. The Committee therefore, **seeks the Treasurer's advice** as to the possible consequences of the exercise of this discretion, and whether its exercise is subject to any form of review, and, if not, whether it ought be.

*Pending the Treasurer's advice, the Committee draws Senators' attention to this provision, as it may be considered to make rights, liberties or obligations unduly dependent upon non-reviewable discretions, in breach of principle 1(a)(iii) of the Committee's terms of reference.*

## **Excise Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000**

This bill was introduced into the House of Representatives on 22 June 2000 by the Parliamentary Secretary to the Minister for the Environment and Heritage. [Portfolio responsibility: Treasury]

The bill proposes to amend the *Excise Tariff Act 1921* to enact amendments consequential on the Product Stewardship (Oil) Bill 2000. The amendments introduce an excise levy of 5 cents per litre on domestically produced petroleum-based oils and greases and their synthetic equivalents. The levy, which is subject to CPI adjustments, is to operate from 1 January 2001.

*The Committee has no comment on this bill.*

## **Family and Community Services and Veterans' Affairs Legislation Amendment (Debt Recovery) Bill 2000**

This bill was introduced into the House of Representatives on 21 June 2000 by the Minister for Community Services. [Portfolio responsibility: Family and Community Services]

The bill gives effect to a 1999-2000 Budget measure providing for the simplification, clarification and strengthening of debt recovery.

Schedule 1 to the bill amends the overpayment and debt recovery provisions of the *Social Security Act 1991* to ensure that, where an incorrect payment is made for any reason (including computer or administrative error), that amount is recoverable. The amendments provide for an interest charge and an administrative charge to be incurred where a person fails, within a specified period to enter into, and comply with, an arrangement to repay outstanding debt. The amendments also provide for the recovery of amounts, directly from financial institutions, where these amounts have been paid in error into accounts kept at the financial institution.

Schedule 3 amends the overpayments and debt recovery provisions of the *A New Tax System (Family Assistance) (Administration) Act 1999* in a manner consistent with these amendments.

Schedule 2 amends the *Social Security (Administration) Act 1999* to provide that, where the Secretary can make a decision in accordance with the social security law, and that decision is made as the result of the operation of a computer program, then the decision is taken to be a decision made by the Secretary. The proposed amendments also provide that determinations to grant social security payments cease to have effect on the day that the person dies.

Schedule 4 proposes to amend the *Veterans' Entitlements Act 1986* to introduce a better targeted regime for managing outstanding debts. Penalty provisions will target only persons not receiving a pension, allowance or pecuniary benefit under either the *Veterans' Entitlements Act 1986* or the social security law. The amendments will also facilitate the recovery of overpayments directly from financial institutions in certain circumstances.

Schedule 5 proposes to amend the *Safety, Rehabilitation and Compensation Act 1983* to enable garnishee action to be taken in respect of those payments where the person has a debt under the social security law.

*The Committee has no comment on this bill.*

## Gene Technology Bill 2000

This bill was introduced into the House of Representatives on 22 June 2000 by the Minister for Health and Aged Care. [Portfolio responsibility: Health and Aged Care]

The bill, which represents a major component of a national scheme of legislation, proposes to establish a regulatory framework to protect public health and safety and to protect the environment from risks associated with gene technology. The scheme operates by identifying and assessing risks posed by, or as a result of, gene technology, and by managing risks through the regulation of certain dealings with genetically modified organisms (GMOs).

The bill establishes a statutory officer, to be known as the Gene Technology Regulator, to perform various statutory functions; and three Committees (the Gene Technology Technical Advisory Committee, the Gene Ethics Committee and the Gene Technology Community Consultative Group) to provide scientific, ethical and policy advice respectively to the Regulator and/or the Ministerial Council established under an Intergovernmental Agreement on Gene Technology.

### **Strict liability offences**

#### **Clauses 33, 35, 36 and 37**

Clauses 33 and 35 of this bill impose strict liability for the offences of dealing with a genetically modified organism (GMO) without a licence, and breaching the conditions of a GMO licence. Strict liability permits a person to be convicted of the offence if the prosecution simply proves the fact of a contravention – the prosecution need not prove that the conduct was done intentionally or recklessly.

Clauses 32 and 34 provide that the same conduct, if done intentionally or recklessly, is also a criminal offence, for which a greater penalty may be imposed, and the provisions are therefore in accord with the *Criminal Code*.

Similarly, clauses 36 and 37 impose strict liability for some aspects of the conduct specified in those clauses (breach of conditions on the GMO Register,

and undertaking a notifiable low risk dealing otherwise than in accordance with the regulations).

In setting out the background to these provisions, the Explanatory Memorandum fails to provide any reason for the imposition of strict liability in each of the relevant circumstances. The Committee, therefore, **seeks the Minister's advice** as to this issue.

*Pending the Minister's advice, the Committee draws Senators' attention to these provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee's terms of reference.*

### **Aggravated offences and "significant damage"**

#### **Clause 38**

Clause 38 of this bill states that an offence is an aggravated offence "if the commission of the offence causes significant damage, or is likely to cause significant damage, to the health and safety of people or to the environment". The purpose of this clause is to assist in the application of clauses 32 to 34, which provide for considerably higher penalties in the case of aggravated offences.

However, the bill does not define, or seek to provide a meaning for the notion of, "significant" in relation to damage which has been, or may be, caused by the conduct of an accused. Given that aggravated offences are to attract much higher penalties, the Committee **seeks the Minister's advice** as to why an important term such as "significant damage" is not defined in the legislation.

*Pending the Minister's advice, the Committee draws Senators' attention to this provision, as it may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee's terms of reference.*



## Old convictions, continuing consequences

### Clause 58

Clause 58 of this bill provides that, in deciding whether a person or company is “suitable” to hold a licence under the bill, the Gene Technology Regulator must have regard to any relevant conviction. A relevant conviction is defined as a conviction for an offence “relating to the health and safety of people or the environment” that occurred within the previous 10 years and that was punishable by a fine of \$5000 or by imprisonment for 1 year.

Such provisions may be regarded as somewhat arbitrary, and as imposing a double penalty on the person or company concerned in that the fact of a conviction is held against them, possibly long after the offence was committed.

Further, such provisions, in referring to offences “punishable” by a fine or imprisonment, are potentially inequitable in that they take account of nominal penalties but not of penalties actually imposed. For example, a person who has actually served a sentence of imprisonment of 6 months for a relevant offence which was punishable by imprisonment for 6 months (ie the worst category of such an offence) would not have this sentence taken into account. However, a person who was fined \$50 for a relevant offence punishable by imprisonment for a year (ie not at all a serious category of such an offence) would have this sentence taken into account.

There is a real possibility that such a provision may lead to a refusal to grant a licence in circumstances of apparent unfairness. The Committee, therefore, **seeks the Minister’s advice** as to the appropriateness of requiring such old convictions to be taken into account.

*Pending the Minister’s advice, the Committee draws Senators’ attention to these provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee’s terms of reference.*

## Search and entry without a warrant

### Clause 158

Clause 158 of this bill permits the entry of an inspector onto premises without a warrant if the inspector has reasonable grounds for suspecting that

something on the premises indicates that the Act or regulations have not been complied with, and the inspector considers it necessary to exercise this power “to avoid an imminent risk of death, serious illness, serious injury or to protect the environment”.

Entry without a warrant is a matter of concern to the Committee, and was canvassed at length in the Committee’s *Fourth Report of 2000*. Specifically, at paragraph 1.44 of that Report, the Committee noted that “entry onto premises without consent may be reasonable in situations of emergency, serious danger to public health, or where national security is involved. However, in such situations it is appropriate that a judicial officer, rather than a Minister or Departmental Secretary, should authorise that entry”.

While the Committee is mindful of the need to minimise risks to health or the environment, clause 158 appears to permit an entry (with no need to obtain any form of authorisation from anyone) where an inspector considers it “necessary” to avoid a risk to health “or to protect the environment”. There is no requirement either for ‘reasonable’ necessity or for a ‘significant’ threat to the environment. The Committee, therefore, **seeks the Minister’s advice** as to the appropriateness of an entry power expressed in such wide terms.

*Pending the Minister’s advice, the Committee draws Senators’ attention to this provision, as it may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee’s terms of reference.*

## **Gene Technology (Consequential Amendments) Bill 2000**

This bill was introduced into the House of Representatives on 22 June 2000 by the Minister for Health and Aged Care. [Portfolio responsibility: Health and Aged Care]

Introduced with Gene Technology Bill 2000, this bill proposes to amend the *Agricultural and Veterinary Chemicals (Administration) Act 1992*, the *Agricultural and Veterinary Chemicals Code Act 1994*, the *Australia New Zealand Food Authority Act 1991*, the *Industrial Chemicals (Notification and Assessment) Act 1989* and the *Therapeutic Goods Act 1989* to ensure that existing regulators of genetically modified products have access to comprehensive advice on genetic safety from the Gene Technology Regulator, and to ensure that the Gene Technology Regulator holds a comprehensive data base of all genetically modified organisms or genetically modified products approved in Australia.

The bill also amends Schedule 3 of the *Freedom of Information Act 1982* to clarify that information that is declared to be confidential commercial information under the *Gene Technology Act 2000* is also protected under the *Freedom of Information Act 1982*.

*The Committee has no comment on this bill.*

## Gene Technology (Licence Charges) Bill 2000

This bill was introduced into the House of Representatives on 22 June 2000 by the Minister for Health and Aged Care. [Portfolio responsibility: Health and Aged Care]

Introduced with Gene Technology Bill 2000, this bill provides the framework to enable annual charges to be levied by regulation in respect of licences issued under the Gene Technology Bill 2000.

### Setting a rate of levy by regulation

#### Subclause 4(2)

Subclause 4(2) of this bill permits the charges to be levied under the bill to be set by regulation, with no upper limit specified in the bill itself. The Committee consistently draws attention to such legislation, which creates a risk that the levy may, in fact, become a tax. It is for the Parliament, rather than the makers of subordinate legislation, to set a rate of tax.

The Explanatory Memorandum, in its Financial Impact Statement, notes that the intention of the bill is to ensure that the costs incurred by the Gene Technology Regulator, in fulfilling the functions set out in the Gene Technology Bill 2000, are to be recovered from those who use the service. However, this limitation is not expressed in the bill itself. As it stands, the bill would seem to permit taxes to be levied by delegated legislation, and may therefore be regarded as inappropriately delegating legislative power. The Committee **seeks the advice of the Minister** on this issue.

*Pending the Minister's advice, the Committee draws Senators' attention to this provision, as it may be considered to inappropriately delegate legislative powers, in breach of principle 1(a)(iv) of the Committee's terms of reference.*

## **Higher Education Funding Amendment Bill (No. 1) 2000**

This bill was introduced into the House of Representatives on 21 June 2000 by the Minister for Education, Training and Youth Affairs. [Portfolio responsibility: Education, Training and Youth Affairs]

The bill proposes to amend the *Higher Education Funding Act 1988* to:

- vary the maximum amount of financial assistance payable to higher education institutions for the funding year 2001 and maximum funding amounts for university operating grants and certain other grants for the funding years 1999, 2000 and 2001;
- set the maximum amount of financial assistance payable to higher education institutions for the funding year 2002;
- provide additional funding for Budget initiatives including new university places for medical students on bonded scholarships, the Research Infrastructure Equipment and Facilities Scheme, and the Strategic Partnership with Industry – Research and Training Scheme;
- reflect the name change of Batchelor College to the Batchelor Institute of Indigenous Tertiary Education; and
- amend the definition of “year to which the Act applies”.

*The Committee has no comment on this bill.*

## **Primary Industries Legislation Amendment (Vegetable Levy) Bill 2000**

This bill was introduced into the House of Representatives on 21 June 2000 by the Minister for Agriculture, Fisheries and Forestry. [Portfolio responsibility: Agriculture, Fisheries and Forestry]

The bill proposes to amend the Primary Industries Levies and Charges Collection (Vegetable) Regulations to clarify the rate of levy to be struck on vegetables that were grown and processed by the producer, between 1 March 1996 and 30 June 1999.

The proposed changes reset the levy rate for vegetables grown and self processed between 1 March 1996 and 30 June 1999 at 0.5%. Producers who sold vegetables unprocessed will not be affected by the proposed changes.

### **Retrospective commencement**

#### **Clause 2**

Clause 2 of this bill provides that the amendment proposed is to commence retrospectively on 1 March 1996. However, as both the Second Reading Speech and the Explanatory Memorandum make clear, the effect of the legislation is beneficial for those who grow and process vegetables, and it corrects an anomaly which was discovered in earlier Regulations.

*In these circumstances, the Committee makes no further comment on this bill.*

## Product Stewardship (Oil) Bill 2000

This bill was introduced into the House of Representatives on 22 June 2000 by the Parliamentary Secretary to the Minister for the Environment and Heritage. [Portfolio responsibility: Environment and Heritage]

The bill proposes to establish the machinery and administrative provisions necessary to give administrative support to a product stewardship system for waste oil, to encourage greater recycling and the re-use of waste oil.

Product stewardship attempts to address environmental problems of waste disposal, and to encourage the recycling of finite resources, based on the concept that responsibility for a product lasts for the entire lifetime of that product. Under the bill, waste oil is given a monetary value, and benefits for recycling it are to be paid through statutory mechanisms.

The bill also proposes the establishment of an Oil Stewardship Advisory Council to advise the Minister on the operations of the product stewardship arrangements, and on the setting of appropriate benefit rates.

*The Committee has no comment on this bill.*

## **Product Stewardship (Oil) (Consequential Amendments) Bill 2000**

This bill was introduced into the House of Representatives on 22 June 2000 by the Parliamentary Secretary to the Minister for the Environment and Heritage. [Portfolio responsibility: Treasury]

The bill proposes amendments to other Acts, including the *Excise Act 1901*, to give effect to the product stewardship system for waste oil. The bill also amends the *Product Grants and Benefits Administration Act 2000* to ensure that the provisions of that Act apply appropriately to the scheme and to ensure consistency with recent amendments to other taxation laws.

*The Committee has no comment on this bill.*



## Renewable Energy (Electricity) Bill 2000

This bill was introduced into the House of Representatives on 22 June 2000 by the Parliamentary Secretary to the Minister for the Environment and Heritage. [Portfolio responsibility: Environment and Heritage]

The bill implements a commitment to introduce a mandatory target for the uptake of renewable energy in power supplies in order to contribute to the reduction of Australia's greenhouse gas emissions. In general terms, the bill establishes:

- a requirement for wholesale purchasers and notional wholesale purchasers of electricity to purchase additional renewable energy, substantiated through holding renewable energy certificates;
- a regulatory framework for parties able to create renewable energy certificates for their electricity generation which may be traded;
- a Renewable Energy Regulator to oversee the scheme;
- reporting requirements to record and report to the Regulator liabilities incurred under the legislation and the surrendering of certificates to meet those liabilities; and
- the authority for some administrative details, definitions and guidelines to be prescribed by regulation.

### Strict liability offences

#### Subclauses 24(1) and 154(1)

Subclauses 24(1) and 154(1) of this bill create offences of strict liability, where the prosecution need prove only the fact of the contravention, but is not required to prove that the conduct was done intentionally or recklessly. Subclauses 24(3) and 154(3) provide that the same conduct, if done intentionally, is also a criminal offence which attracts a greater penalty, and the provisions are therefore in accord with the *Criminal Code*.

However, the Explanatory Memorandum fails to provide any reason for the imposition of strict liability in these instances. The Committee, therefore, **seeks the Minister's advice**, as to the reasons for the imposition of strict liability in these circumstances.

*Pending the Minister's advice, the Committee draws Senators' attention to these provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee's terms of reference.*

## **Renewable Energy (Electricity) (Charge) Bill 2000**

This bill was introduced into the House of Representatives on 22 June 2000 by the Parliamentary Secretary to the Minister for the Environment and Heritage. [Portfolio responsibility: Environment and Heritage]

The bill proposes to impose a penalty for non-compliance with the requirements under the Renewable Energy (Electricity) Bill 2000 for wholesale purchasers of electricity to purchase increasing amounts of renewable energy. Parties who are not able to meet their obligations to secure sufficient renewable energy certificates will be able to elect to pay a shortfall payment to the Government. This penalty will be redeemable if the shortfall is made up within three years of its being incurred.

*The Committee has no comment on this bill.*

## **Vocational Education and Training Funding Amendment Bill 2000**

This bill was introduced into the House of Representatives on 21 June 2000 by the Minister for Education, Training and Youth Affairs. [Portfolio responsibility: Education, Training and Youth Affairs]

The bill proposes to amend the *Vocational Education and Training Act 1992* to supplement 2000 funding to the Australian National Training Authority (ANTA) in line with real price movements, and to appropriate general vocational and training funding for ANTA for the year 2001.

*The Committee has no comment on this bill.*

**PROVISIONS OF BILLS WHICH IMPOSE CRIMINAL  
SANCTIONS FOR A FAILURE TO PROVIDE INFORMATION**

**REPORT NO 5/2000**

The Committee's *Eighth Report of 1998* dealt with the appropriate basis for penalty provisions for offences involving the giving or withholding of information. In that Report, the Committee recommended that the Attorney-General develop more detailed criteria to ensure that the penalties imposed for such offences were "more consistent, more appropriate, and make greater use of a wider range of non-custodial penalties". The Committee also recommended that such criteria be made available to Ministers, drafters and to the Parliament.

The Government responded to that Report on 14 December 1998. In that response, the Minister for Justice referred to the ongoing development of the Commonwealth *Criminal Code*, which would include rationalising penalty provisions for "administration of justice offences". The Minister undertook to provide further information when the review of penalty levels and applicable principles had taken place.

For information, the following Table sets out penalties for 'information-related' offences in the legislation covered in this *Digest*. The Committee notes that imprisonment is still prescribed as a penalty for some such offences.

**TABLE**

<b>Bill/Act</b>	<b>Section/Subsection</b>	<b>Offence</b>	<b>Penalty</b>
<i>Excise Amendment (Compliance Improvement) Bill 2000</i>	Clause 4	Fail to provide information	10 penalty units (natural persons); 50 penalty units (body corporate)
<i>Gene Technology Bill 2000</i>	Subclause 164(4)	Fail to answer questions	30 penalty units
	Clause 187	Disclose confidential commercial information	Imprisonment for 2 years or 120 penalty units
<i>Renewable Energy (Electricity) Bill 2000</i>	Subclause 113(1)	Fail to provide information to authorised officer	Imprisonment for 6 months

## **BILLS GIVING EFFECT TO NATIONAL SCHEMES OF LEGISLATION**

Recent discussions between the Chairs and Deputy Chairs of Commonwealth, State and Territory Scrutiny Committees have again noted difficulties in the identification and scrutiny of national schemes of legislation. Essentially, these difficulties arise because 'national scheme' bills are devised by Ministerial Councils and are presented to Parliaments as agreed and uniform legislation. Any requests for amendment are seen to threaten that agreement and that uniformity.

To assist in the early identification of national schemes of legislation, the Committee proposes to note bills that give effect to such schemes as they come before the Committee for consideration.

### **Gene Technology Bill 2000**

### **Gene Technology (Consequential Amendments) Bill 2000**

### **Gene Technology (Licence Charges) Bill 2000**

The object of the Gene Technology Bill 2000 is to "protect the health and safety of people, and to protect the environment, by identifying risks posed by or as a result of gene technology, and by managing those risks through regulating certain dealings with genetically modified organisms"

Clause 5 of the bill states that it is the intention of the Commonwealth Parliament that this bill "form a component of a nationally consistent scheme for the regulation of certain dealings with genetically modified organisms by the Commonwealth and the States".

In discussing this clause, the Explanatory Memorandum observes that "it is expected that each State and Territory will enact its own gene technology legislation to complement, or apply, the Commonwealth legislation within its own jurisdiction. It is also expected that an Intergovernmental Agreement on Gene Technology (the Gene Technology Agreement) will be signed by the Commonwealth, States and Territories to ensure the national system maintains a high degree of consistency over time".

Related to this bill, the Gene Technology (Consequential Provisions) Bill 2000 amends a series of Acts to ensure that existing regulators of genetically modified products have access to advice on genetic safety from the Gene Technology Regulator, and to ensure that the Gene Technology Regulator maintains a comprehensive database of all genetically modified organisms or products, and to exempt confidential commercial information from the *Freedom of Information Act 1982*.

Related to both bills, the Gene Technology (Licence Charges) Bill 2000 provides a framework to enable annual charges to be levied by regulation in respect of licences issued under the Gene Technology Bill.

## STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

## INDEX OF BILLS COMMENTED ON AND MINISTERIAL RESPONSES SOUGHT/RECEIVED - 2000

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE SOUGHT RECEIVED	REPORT NUMBER
		HOUSE	SENATE			
<b>Bills Carried over from 1999</b>						
Convention on Climate Change (Implementation) Bill 1999	14(22.9.99)		2.9.99	Senator Brown	23.9.99	
Copyright Amendment (Digital Agenda) Bill 1999	14(22.9.99)	2.9.99		Attorney-General	23.9.99	
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999	19(1.12.99)	24.11.99		Justice and Customs	2.12.99	15.3.00
Fair Prices and Better Access for All (Petroleum) Bill 1999	14(22.9.99)	30.8.99		Mr Fitzgibbon	23.9.99	23.12.99 DC 3.4.00
Fisheries Legislation Amendment Bill (No. 1) 1999	14(22.9.99)	1.9.99	14.10.99	Agriculture, Fisheries and Forestry	23.9.99	14.2.00 1(16.2.00) Act No. 143
<i>Migration Legislation Amendment Act (No. 1) 1999</i>	1(15.2.99)	30.6.99	3.12.98	Immigration and Multicultural Affairs	16.2.99	23.3.99 4(24.3.99)
(previous citation: Migration Legislation Amendment Bill (No. 2) 1998)					25.3.99	22.6.99 10(23.6.99)
					24.6.99	20.12.99 1(16.2.00)
						7.2.00
<i>Telecommunications (Interception) Amendment Act 1999</i>	14(22.9.99)	2.9.99	14.10.99	Attorney-General	23.9.99	19.10.99 17(20.10.99)
					21.10.99	16.3.00 3(5.4.00)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE SOUGHT		REPORT NUMBER
		HOUSE	SENATE		RECEIVED	RECEIVED	
<b>Bills being dealt with during 2000</b>							
A New Tax System (Family Assistance and Related Measures) Bill 2000	3(15.3.00)	9.3.00	5.4.00	Family and Community Services	16.3.00	4.4.00	5(12.4.00)
Broadcasting Services Amendment Bill (No. 3) 1999	1(16.2.00)	6.12.99	9.12.99	Communications, Information and the Arts	17.2.00	4.5.00	Act No.198 7(7.6.00)
Broadcasting Services Amendment Bill (No. 4) 1999	1(16.2.00)	9.12.99		Communications, Information and the Arts	17.2.00	4.5.00	
Criminal Assets Recovery Bill 2000	4(5.4.00)	13.3.00		Mr Kerr, ALP	6.4.00	17.5.00	
Customs Legislation Amendment (Criminal Sanctions and Other Measures) Bill 2000 (previous citation: Customs Legislation Amendment (Criminal Sanctions and Other Measures) Bill 1999	*19(1.12.99) 2(8.3.00)	24.11.99	13.3.00	Justice and Customs	9.3.00		Act No. 23
Dairy Industry Adjustment Bill 2000	2(8.3.00)	16.2.00	15.3.00	Agriculture, Fisheries and Forestry	9.3.00	14.3.00	2(15.3.00)
Family and Community Services Legislation Amendment Bill 2000	3(15.3.00)	9.3.00	13.4.00	Family and Community Services	16.3.00	4.4.00	6(10.5.00)
Financial Management and Accountability Amendment Bill 2000	7(7.6.00)	10.5.00	8.6.00	Finance and Administration	8.6.00	20.6.00	8(21.6.00)
Financial Sector Legislation Amendment Bill (No. 1) 2000	6(10.5.00)	13.4.00	26.6.00	Treasurer	11.5.00	25.5.00	9(28.6.00)
Jurisdiction of Courts Legislation Amendment Bill 2000	3(15.3.00)	8.3.00	11.4.00	Attorney-General	16.3.00	30.3.00 13.4.00	5(12.4.00) 6(10.5.00)



NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Migration Legislation Amendment Bill (No. 2) 2000	4(5.4.00)	14.3.00		Immigration and Multicultural Affairs	6.4.00	26.4.00	
Migration Legislation Amendment (Parents and Other Measures) Bill 2000	8(21.6.00)	7.6.00	27.6.00	Immigration and Multicultural Affairs	22.6.00	27.6.00	9(28.6.00)
National Crime Authority Amendment Bill 2000	4(5.4.00)	13.3.00		Mr Kerr	6.4.00	17.5.00	
New Business Tax System (Miscellaneous) Bill (No. 2) 2000	6(10.5.00)	13.4.00	27.6.00	Treasurer	11.5.00	8.6.00	9(28.6.00)
Pooled Development Funds Amendment Bill 1999	1(16.2.00)	8.12.99	13.4.00	Industry, Science and Resources	17.2.00	2.3.00	6(10.5.00)
Postal Services Legislation Amendment Bill 2000	5(12.4.00)	6.4.00		Communications, Information Technology and the Arts	13.4.00		
Privacy Amendment (Private Sector) Bill 2000	6(10.5.00)	12.4.00		Attorney-General	11.5.00		
Product Grants And Benefits Administration Bill 2000	6(10.5.00)	12.4.00	11.5.00	Treasurer	11.5.00	5.6.00	7(7.6.00)
Sales Tax (Industrial Safety Equipment) (Transitional Provisions) Bill 2000	7(7.6.00)	11.5.00	5.6.00	Treasurer	8.6.00	20.6.00	8(21.6.00)
Sex Discrimination Legislation Amendment (Pregnancy and Work) Bill 2000	4(5.4.00)	13.3.00		Mrs Macklin	6.4.00		
Sex Discrimination Legislation Amendment (Pregnancy and Work) Bill 2000 [No. 2]	4(5.4.00)		14.3.00	Senator Crossin	6.4.00		

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Sydney Harbour Federation Trust Bill 1999	1(16.2.00)		8.12.99	Environment and Heritage	17.2.00	22.3.00	4(5.4.00)
Taxation Laws Amendment Bill (No. 11) 1999	1(16.2.00) 2(8.3.00)	9.12.99	10.5.00	Treasurer	17.2.00 9.3.00	30.3.00 5.4.00	7(7.6.00)
Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 1) 2000	7(7.6.00)	10.5.00	22.6.00	Communications, Information Technology and the Arts	8.6.00		
Telecommunications (Interception) Legislation Amendment Bill 2000	3(15.3.00)	16.2.00	13.3.00	Attorney-General	16.3.00	27.4.00	6(10.5.00)
Trade Practices Amendment (Unconscionable Conduct—Saving of State and Territory Laws) Bill 2000	8(21.6.00)	5.6.00		Mr Fitzgibbon	22.6.00		

